

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.12891 of 2006

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Dated: February 22, 2007
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Between:

Smt. A. Kameshwari, W/o. A. Ram Mohan Rao,
aged about 53 years, R/o. 37-10/9, Defence
Colony, Plot No.58, Sainikpuri, Secunderabad.

... Petitioner

And

The Cantonment Board, Secunderabad, and
Appointing Authority-cum-Disciplinary Authority,
Cantonment Executive Officer, Secunderabad
Cantonment Board, Secunderabad.

... Respondents

Order:

This Writ Petition has been filed questioning the proceedings dated 05-05-2005 vide Office order No.58 of 2005 by the second respondent – Cantonment Executive Officer, Secunderabad Cantonment Board.

2. Petitioner is a Diploma-holder in Pharmacy and has also completed B.Sc. Degree. She was appointed as Pharmacist in 1976

in the service of the Secunderabad Cantonment Board. In May 2005, a case for the offences under Sections 120-B and 420 of the Indian Penal Code, 1860 (IPC) and Section 13(2) read with Section 13(1) (d) of the Prevention of Corruption Act, 1988 was registered against the petitioner as well as the second respondent herein, on the file of the Superintendent of Police, Central Bureau of Investigation, Anti-Corruption Branch, Hyderabad, on the ground that they conspired together and misused their official positions as public servants in the matter of procurement of medicines for Cantonment General Hospital, Bollaram, Secunderabad, and its four dispensaries, for the year 2004-05. The same was registered as RC.No.13 (A)/2005. Another case in RC.No.8 (A)/2005 was also registered against the petitioner for the alleged offences under Sections 409, 477-A IPC and Section 13(2) read with Section 13(1) (c) & (d) of the Prevention of Corruption Act, 1988.

In view of registration of the said cases, petitioner was placed under suspension by the second respondent by the impugned proceedings in exercise of powers under Sub-rule (1) of Rule 10 (A) of Cantonment Fund Servants Rules, 1937 (for short 'the Rules') framed under the Cantonments Act, 1924.

3. Sri G. Ravi Mohan, learned counsel for the petitioner, submits that though enquiry was completed and proceedings initiated against the petitioner were dropped by way of filing a final report under Section 173 of the Code of Criminal Procedure (Cr.P.C.), she is still being continued under suspension without any valid reason. Learned counsel has placed before this court a copy of the letter dated 21-07-2006 addressed by the Superintendent of Police, CBI, ACB Branch, Hyderabad, to the Founder President, Secunderabad Cantonment Samaj Seva Sanghatan, wherein it is stated that no sufficient evidence

is available to prosecute the petitioner, and, as such, a report was filed under Section 173 Cr.P.C. In the said letter, departmental action was recommended against the petitioner.

4. On the other hand, learned Standing Counsel appearing on behalf of the respondents submits that subsequent to filing of the Writ Petition, departmental proceedings have also been initiated against the petitioner and are pending consideration.

5. Though learned counsel for the petitioner submits that a final report was filed under Section 173 Cr.P.C., in the case registered against the petitioner in RC.No.13 (A)/2005, for the alleged offences referred above, dropping the criminal proceedings against him, but, however, it is to be seen that a final report has been filed in RC.No.8 (A)/2005, to prosecute the petitioner for the offences under Sections 409 and 477-A IPC and Section 13(2) read with Section 13(1) (c) & (d) of the Prevention of Corruption Act, 1988.

6. As much as in RC.No.8 (A)/2005, charge sheet has already been filed to prosecute the petitioner for the offences referred above, it cannot be said that entire proceedings are dropped against her. But, at the same time, it is to be noted that irregularities committed by the petitioner were found and inspection was made in May, 2005 and pending investigation, impugned proceedings were issued placing her under suspension in exercise of powers under Rule 10-A of the Rules. The order of suspension is in conformity with the Rules framed in that regard. It is not in dispute that two crimes are registered against the petitioner. So far as RC.No.13 (A)/2005 is concerned, from the letter dated 21-07-2006 addressed by the Superintendent of Police, CBI, ACB Branch, Hyderabad, addressed to the Founder President, Secunderabad Cantonment Samaj Seva Sanghatan, it is clear that no

sufficient evidence is available to prosecute the petitioner, and, as such, a report was filed under Section 173 Cr.P.C., dropping the criminal proceedings; however departmental proceedings were recommended against the petitioner. With regard to the case in RC.No. 8 (A)/2005 also, final report has already been filed and the same is pending trial. As much as more than 20 months have elapsed since the petitioner was suspended, whether she has to be further continued under suspension is a matter, which is required to be considered by the respondents by reviewing her case, taking into account the fact that a final report was filed in RC.No.13 (A)/2005 stating that there is no sufficient evidence to proceed against her and also the final report filed in RC.No.8 (A)/2005.

7. Having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the Writ Petition permitting the petitioner to make a representation in this regard to the respondent authorities to review the order of suspension dated 05-05-2005. If any such representation, seeking review of the order of suspension, is received by the respondents, they shall consider the same and pass appropriate orders, within a period of four weeks from the date of such representation, taking into account the final reports filed in the aforementioned crimes registered against the petitioner. Even with regard to departmental proceedings initiated against the petitioner, it is open for the respondents to complete the enquiry and pass appropriate orders.

8. The Writ Petition is disposed of with the above directions. No costs.

JUSTICE R. SUBHASH REDDY.

February 22, 2007

N.B. Furnish C.C. in three days

B.O.
MRR